

The Honorable Robert S. Lasnik

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REGENCE BLUESHIELD, ASURIS
NORTHWEST HEALTH,
COMMENCEMENT BAY LIFE INSURANCE
CO., REGENCE BLUECROSS BLUESHIELD
OF OREGON, REGENCE HEALTH
MAINTENANCE OF OREGON, INC.,
REGENCE HMO OREGON, REGENCE LIFE
AND HEALTH INSURANCE CO., REGENCE
BLUESHIELD OF IDAHO, THE REGENCE
GROUP DEFINED PENSION PLAN TRUST,
REGENCE BLUECROSS BLUESHIELD OF
UTAH, and HEALTHWISE,

Plaintiffs,

v.

BNY Mellon BANK, N.A.,

Defendant.

Case No. 2:09-cv-0618-RSL

DECLARATION OF BRADLEY P.
THORESON IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO BNY
MELLON BANK, N.A.'S MOTION TO
DISMISS

BRADLEY P. THORESON declares as follows:

1. Declarant. I am an attorney at the law firm of Foster Pepper PLLC, attorneys for plaintiffs in the above-captioned matter. I have personal knowledge of the following facts and I am competent to testify to them.

2. On June 11, 2010, I sent Defendant BNY Mellon Bank, N.A.'s ("Defendant") counsel, Damien J. Marshall, a letter demanding the withdrawal of its Motion to Dismiss. Attached hereto as Exhibit A is a true and correct copy of my letter to Mr. Marshall.

DECLARATION OF BRADLEY P. THORESON IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO BNY MELLON BANK, N.A.'S
MOTION TO DISMISS - 1
Case No. 2:09-cv-0618-RSL

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1 3. My letter requested the withdrawal of Defendant's Motion to Dismiss by June 14,
2 2010 at 12:00 p.m. PST.

3 4. Defendant failed to withdraw its Motion to Dismiss as of the requested time.

4 Executed under the penalty of perjury this 14th day of June, 2010 in Seattle, Washington,
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7 /s/ Bradley P. Thoreson
8 Bradley P. Thoreson
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DECLARATION OF BRADLEY P. THORESON IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO BNY MELLON BANK, N.A.'S
MOTION TO DISMISS - 2
Case No. 2:09-cv-0618-RSL

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Exhibit A



FOSTER PEPPER PLLC

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Direct Facsimile 206-749-1923
E-Mail thorb@foster.com

June 11, 2010

Via E-Mail and Fed Ex

Mr. Damien J. Marshall
Boies, Schiller & Flexner, LLP
401 East Las Olas Blvd., Suite 1200
Fort Lauderdale, FL 33301-2211

Re: *Regence Blueshield, et al v. BNY Mellon Bank*
Case No. 2:09-cv-00618-RSL

Dear Damien:

I write to demand the withdrawal of the pending Motion to Dismiss. In light of the facts recently revealed in Plaintiffs' Motion for Sanctions, Regence believes that the pending Motion to Dismiss is frivolous and a violation of your obligations under Rule 11. While we do not dispute that the pending Motion to Dismiss was carefully worded to avoid the appearance of outright misrepresentations, that does not change the fact that BNY Mellon and its counsel knew that its Motion to Dismiss was misleading and improper. Accordingly, unless you withdraw the pending Motion to Dismiss prior to Monday, June 14, 2010, by 12:00 p.m. PST, we will seek to recover from your client the attorneys fees and costs Regence has incurred in connection with opposing the Motion to Dismiss.

Enclosed is an advance copy of the Opposition we intend to file.

Sincerely,

Bradley P. Thoreson